DEPARTMENT OF FOREIGN AFFAIRS AND TRADE

CANBERRA, A.C.T. 2600

TL 2924

24 January 1990

Mrs M Horwood
21 Wendora Street
STRATHMORE VIC 3041

Dear Mrs Horwood

Thank you for your letter dated 17 December 1989 addressed to the Minister for Foreign Affairs and Trade concerning Australia's signature of the Timor Gap Zone of Cooperation Treaty. Senator Evans has asked me to reply on his behalf.

The Australian Government fully shares the concern you have expressed for the human rights of the people of East Timor. Conclusion of the Timor Gap Zone of Cooperation Treaty in no way impedes Australia's efforts on behalf of the East Timorese. Indeed, Australia's active support for the rights of the people of East Timor is well documented.

Since 1979 Australia has given de jure recognition to Indonesia's acquisition of East Timor. As a practical matter, this recognition has allowed Australia to pursue its concerns for the human rights and economic development of the people of East Timor in a constructive and effective manner with the Indonesian authorities. Senator Evans raised human rights issues with Indonesian Foreign Minister Alatas when he visited Australia in March 1989 and again in their meeting on 10-11 December 1989. He also held discussions with Indonesian Minister of Home Affairs Rudini during the latter's to Australia from 4-8 September 1989.

During a visit to East Timor in October 1989, the Australian Ambassador to Indonesia announced a grant of $100,000 to assist East Timorese farmers. Australia has also contributed significantly to the welfare of the people of East Timor through multilateral organisations. The Australian Government has assisted a United Nations Children's Fund (UNICEF) project in East Timor since its inception in 1982. The total Australian contribution to the project is now $3.24 million. In addition, the Australian Government has contributed $1.8 million over the past six years to the International Committee of the Red Cross (ICRC) for its activities in East Timor.

You referred to Portuguese assertions that Australia's negotiation of the Timor Gap Zone of Cooperation Treaty is a breach of international law. The Australian Government rejects absolutely such assertions. There is no binding legal obligation not to recognise the acquistion of territory acquired by force. Such a recognition does not, of course, imply approval of the circumstances of the acquisition. In international law questions concerning the legality of the original acquisition of territory by a State have to be distinguished from questions concerning the legality of subsequent dealings between the State acquiring the new territory and other States - in this instance, Australia. I am attaching for your information copies of Senator Evans' statements to Parliament on this matter.

It should also be noted that the regime established by the Treaty is a provisional one subject to final delimitation of the continental shelf. Australia continues to assert sovereign rights over the continental shelf of the entire area covered by the Treaty. Australia does not concede that any sovereign rights over seabed resources that appertain to East Timor in fact extend into the Zone of Cooperation created by the Treaty.

You state in your letter that the public was not informed of the Government's intention to sign the Timor Gap Zone of Cooperation Treaty. In a joint statement dated 26 October 1988, the Australian Minister for Foreign Affairs and Trade, Senator Gareth Evans, and the Indonesian Foreign Minister, Mr Ali Alatas, endorsed a recommendation to establish a Zone of Cooperation for petroleum exploration and exploitation in the "Timor Gap" and expressed their desire that a comprehensive agreement should be concluded between the two countries within one year. During the past year a number of articles in the national press have reported on progress of negotiation of the Treaty. I would also like to draw your attention to the joint statement by Senator Gareth Evans, Minister for Foreign Affairs and Trade, and Senator Peter Cook, Minister for Resources, dated 27 October 1989 announcing agreement on the terms of the Treaty and foreshadowing signature of the Treaty in December that year.

Yours sincerely

(W E Weemaes)
Assistant Secretary
Treaties and Sea Law Branch